

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on January 26, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 370, 1/24/2001
Executive Action: HB 176; HB 239; HB342; HB 354

HEARING ON HB 370

Sponsor: REPRESENTATIVE KEN PETERSON, HD 20, BILLINGS

Proponents: None

Opponents: Leroy Schramm, Board of Regents University Systems

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0}

REPRESENTATIVE KEN PETERSON, HD 20, BILLINGS, stated the bill is an attempt to limit the lobbying act of state agencies. The tax payers are paying them to lobby and build a bigger bureaucracy. This bill would prevent agencies coming in and trying to influence voting of one way or another. It does not prevent the legislatures from calling upon the agencies to present facts and information on any issue they are involved in.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 4.3}

Leroy Schramm, Board of Regents University Systems submitted and discussed an informational handout. **EXHIBIT**(sth21a01)

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 14.5}

REPRESENTATIVE JENT asked Leroy Schramm what first amendment right he felt state employees have, either under federal constitution or under our constitution to testify before a legislative committee. Leroy Schramm replied, his impression is, public employees have first amendment right, but do not have them when performing a task for their department.

REPRESENTATIVE BROWN asked Leroy Schramm, since, the Board of Regents is his client, does that in fact, as a state employee make him a special interest paid for by the tax payers. Leroy Schramm stated, he is like any other employee of an agency, he works from the direction of them. REPRESENTATIVE BROWN then asked if he feels it is against the law for them to pass this bill. Leroy Schramm stated, if this bill is passed in its present form, it would be unconstitutional.

REPRESENTATIVE BARRETT stated she sees a need for the bill. Just this year in a hearing, there were 4 individuals from Professional and Occupational Licensing who sat here all morning. She feels that is excessive lobbying. She then asked if this is what is being addressed in the bill. **REPRESENTATIVE PETERSON** replied, yes, he feels state employees need to be doing work within their department, rather than being here trying to influence the legislature.

REPRESENTATIVE SMITH asked if you were in private practice and was hired by the college to appear here and be a witness on a bill, would you then be an employee. **Leroy Schramm** replied, no and this bill does not address that. **REPRESENTATIVE SMITH** then stated, if you're paid by an organization, you are hired by them, are you not. **Leroy Schramm** replied, you are not an employee, you are an independent contractor.

REPRESENTATIVE DELL asked **REPRESENTATIVE PETERSON** to give an explanation on paying for professional lobbyist. **REPRESENTATIVE PETERSON** replied, he did not intend to have the need of paid lobbyist being hired. It was his impression the lobbyist are in-house. **REPRESENTATIVE DELL** then asked, if any other states currently have this law. **REPRESENTATIVE PETERSON** replied, he has not researched that, however, this bill has been to the legislature on several occasions, so it is not a new concept. **REPRESENTATIVE DELL** stated there are times he does need an informational person and does not have the time to try and track someone down. Would this bill leave opportunities to get information from an individual of an agency, who you knew would be a good informational person. **REPRESENTATIVE PETERSON** replied yes, this is the intent of the bill. Any information can be obtained by the representative by requesting it from the department head or an individual from the department.

REPRESENTATIVE RIPLEY asked if a state employee, drawing a retirement would be excluded from testifying against a retirement bill or anything else related to their agency. **REPRESENTATIVE PETERSON** replied, yes if would if they were speaking for the department, however, they can testify as an individual.

REPRESENTATIVE LEE asked, if on page 3, lines 27 and 28, would preclude us from lobbying our own legislation, because we are state employees. **REPRESENTATIVE PETERSON** stated he does not know the answer to that. He does not feel it would affect the legislatures. Legislatures are the legislative branch and this bill is to preclude those from the executive branch from lobbying the legislature.

REPRESENTATIVE OLSON asked, if the bill should be expanded to included the Supreme Court Justices also. **REPRESENTATIVE PETERSON** replied the bill was intended to only be directed to the state executive branch agencies. **REPRESENTATIVE OLSON** then asked, if the bill does go, shouldn't we include all branches of state government. **REPRESENTATIVE PETERSON** replied, no he does not feel that need. His intent is to control the lobbying by the executive branch agencies.

REPRESENTATIVE LEHMAN clarified, the intent is to prevent them from lobbying on the premises, outside of the hearing rooms. **REPRESENTATIVE PETERSON** replied, yes. **REPRESENTATIVE LEHMAN** then stated, that would not preclude them from coming into a hearing and speaking as an opponent or proponent. **REPRESENTATIVE PETERSON** replied, that is true, if the bill affects the agency.

REPRESENTATIVE RIPLEY asked if the bill would prevent the Fish & Game Department from sitting in the Fish & Game Committee. Obviously every bill in the Fish & Game Committee affects them. **REPRESENTATIVE PETERSON** replied, it would not prevent them from listening or testifying on bills that affect Fish & Game. It would prevent them from grabbing you in the hall or taking you to dinner in trying to influence your vote.

REPRESENTATIVE LEE asked, without the ability to lobby, do you think for example, as far as university funding goes, the legislature would automatically know what is the right thing to do. **Leroy Schramm** replied, in the appropriations process, the agencies are there by the request of the committee. As for the actual committee operations, it certainly would.

REPRESENTATIVE DELL asked if when speaking to **Greg Petesch, Director of Legal Services, Legislative Services Division**, did he indicate if he felt this bill was unconstitutional. **REPRESENTATIVE PETERSON** replied, **Greg Petesch** did not say anything about the bill being unconstitutional and he raises the issue all the time, if he feels it is going to be a problem.

REPRESENTATIVE MASOLO asked for clarification on pages 10 & 11, if this will eliminate a legislature from going to a lobbyist for information. **REPRESENTATIVE PETERSON** replied, the bill is not to preclude a representative from going to any department in the agency and getting information. If the bill is passed, he hopes there will not be any agency lobbyist in the halls to get information from. You would have to go to the agency or department to get the information.

REPRESENTATIVE RASER asked what section in the bill says, state employees cannot cluster the hall, but can testify.

REPRESENTATIVE PETERSON replied it does not say it in any specific section, but it is the overall intent of the bill.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 16.8}

REPRESENTATIVE PETERSON said he does not feel the bill destroys the executive branch, it is simply limiting the bureaucracy. He feels there may be some constitutional issues on the separation of powers, but this bill is not telling the executive branch what they have to do. They can propose legislation through the proper channels and can give oral and written testimony if they are invited to do so, or if it is a bill that specifically affects their division. There is the need to limit the lobbying of state employees from influencing legislatures.

EXECUTIVE ACTION ON HB 176

{Tape : 1; Side : B; Approx. Time Counter : 23.0}

Motion: REP. JENT moved that HB 176 DO PASS.

Motion: REP. JENT moved that HB 176 BE AMENDED.

Discussion:

REPRESENTATIVE JENT discusses the amendment. **EXHIBIT**(sth21a02)

Motion/Vote: REP. JENT moved that HB 176 BE AMENDED. Motion carried unanimously. 18-0

Motion/Vote: REP. JENT moved that HB 176 DO PASS AS AMENDED. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 239

{Tape : 2; Side : A; Approx. Time Counter : 6.5}

Motion: REP. DELL moved that HB 239 DO PASS.

Discussion:

Sheri Heffelfinger stated, according to the testimony of **Tony Herbert, Information Services Division**, they wanted to meet with the sponsors to figure out some amendments due to potential cost implications that could be worked out. They also needed some time to review some federal legislation.

REPRESENTATIVE DELL commented, he feels he cannot vote either way on the bill, until he gets more information on the cost of the program from the Department of Administration.

Substitute Motion: **REP. DELL** made a substitute motion TO **WITHDRAW HIS MOTION**.

EXECUTIVE ACTION ON HB 342

{Tape : 2; Side : A; Approx. Time Counter : 9.6}

Motion: **REP. MASOLO** moved that **HB 342 DO PASS**.

Discussion:

REPRESENTATIVE BARRETT asked how much time and money this would cost state government. **Sheri Heffelfinger** replied she does not know the answer. It is a special revenue account in either case. It is simply a matter of whether it goes there directly or indirectly.

Motion/Vote: **REP. MASOLO** moved that **HB 342 DO PASS**. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 354

{Tape : 2; Side : A; Approx. Time Counter : 14.7}

Motion: **REP. MASOLO** moved that **HB 354 DO PASS**.

Discussion:

REPRESENTATIVE BROWN stated **REPRESENTATIVE LAWSON** has spent a lot of time over the interim with the developmentally disabled planning an advisory council. She feels the ideas **REPRESENTATIVE LAWSON** has brought forth from the council has opened it up to allow people with disabilities to be a member of that committee and she is in support of this.

REPRESENTATIVE JACOBSON said he too feels **REPRESENTATIVE LAWSON** has put a lot of time and energy into this and is in support of the bill.

REPRESENTATIVE BIXBY said she supports the bill as well, but would like to have a conceptual amendment to change "Indian" to "American Indian".

Motion/Vote: REP. BIXBY moved that HB 354 BE AMENDED. Motion carried unanimously. 18-0

Motion/Vote: REP. DELL moved that HB 354 DO PASS AS AMENDED. Motion carried unanimously. 18-0

ADJOURNMENT

Adjournment: 9:20 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth21aad)